

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

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DWIGHT CAPITAL LLC	:
d/b/a "Love Funding Corporation,"	: Civil Action No.:
	:
Plaintiff,	:
	:
-against-	: <b><u>NOTICE OF REMOVAL</u></b>
	:
GATEWAY RESIDENTIAL, LLC,	:
RICKY R. THOMAS a/k/a RICK THOMAS and AMBY	:
L. KELLEY,	:
	:
Defendants.	:
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TO: THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

Pursuant to 28 U.S.C.A. §§ 1441 and 1446, Defendants, Gateway Residential, LLC, Ricky R. Thomas a/k/a Rick Thomas and Amby L. Kelley (collectively, the "Removing Parties"), by the undersigned attorney, submit this Notice of Removal and state as follows:

1. On November 10, 2020, Dwight Capital LLC d/b/a "Love Funding Corporation" ("Dwight Capital"), filed a Summons and Complaint against the Removing Parties, now pending under Index No.: 656170/2020. True and correct copies of the Summons and Complaint are annexed hereto as Exhibit "A".

2. Defendants received the Summons and Complaint on November 24, 2020 by private process server. A true and correct copy of the Affidavit of Service is annexed hereto as Exhibit B.

3. The Southern District of New York includes the county in which this action is pending.

**Grounds for Removal**

4. This action is removable to the Southern District of New York because this Court has subject matter jurisdiction over this controversy pursuant to 28 U.S.C. § 1332 as complete diversity exists among the parties and the amount in controversy exceeds \$75,000.

5. Complete diversity exists among the parties. Dwight Capital is “a domestic limited liability company duly organized and existing under and by virtue of the laws of the State of New York.” (Ex. A, Complaint ¶ 1.) Further, according to plaintiff’s website, its “headquarters” are in New York, and thus its principal place of business is in New York. A true and correct copy of Dwight Capital’s webpage is annexed hereto as Exhibit “C”. Upon information and belief, Dwight Capital has no member that is a citizen of South Carolina.

6. Gateway Residential, LLC is a South Carolina corporation with its principal place of business located in South Carolina. A true and correct copy of Gateway Residential LLC’s corporate status is annexed hereto as Exhibit “D”. In addition, Ricky R. Thomas a/k/a Rick Thomas and Amby L. Kelley are citizens of South Carolina (Ex. A, Summons) and are the members of Gateway Residential, LLC.

7. The amount in controversy exceeds \$75,000. The Complaint expressly seeks “\$617,382.00,” plus other amounts. (Ex. A, Complaint pg(s). 4-6.)

**Timeliness of Removal**

8. This removal is timely pursuant to 28 U.S.C. § 1446(b)(3), as this notice is being filed within thirty (30) days of the receipt of the Summons and Complaint by the Removing Parties on November 24, 2020. (Ex. B.)

**Conformance with Removal Requirements**

9. No other parties have been joined and served as defendants in the above-captioned action.

10. Pursuant to 28 U.S.C. § 1446(d), the Removing Parties will give prompt written notice of the filing of this Notice of Removal to Dwight Capital, and will file a true and accurate copy of this Notice of Removal with the Clerk of the Supreme Court of the State of New York, County of New York.

11. In filing this Notice of Removal, the Removing Parties do not waive any defense that may be available to them.

*[Remainder of this page is intentionally left blank]*

**WHEREFORE**, the Removing Parties pray that this action be removed from the Supreme Court of the State of New York, County of New York to the United States District Court for the Southern District of New York and that the United States District Court for the Southern District of New York issue such orders and processes as may be necessary to preserve its jurisdiction over this matter and bring before it all parties necessary for adjudication of this matter.

Dated: New York, New York  
December 14, 2020

Respectfully submitted,

**WINDELS MARX LANE & MITTENDORF, LLP**

By           /s/ Scott R. Matthews            
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**CERTIFICATE OF SERVICE**

I hereby certify that, on this 14th day of December, 2020, a true and correct copy of the foregoing Notice of Removal and all supporting papers submitted in connection therewith were filed electronically. Notice of this filing will be served on the undersigned counsel of record by U.S. First Class Mail:

Michael L. Shanker, Esq.  
Shanker Law Group  
101 Front Street  
Mineola, New York 11501  
(516) 741-4000  
*Attorneys for Plaintiff*

Dated: New York, New York  
December 14, 2020

By: /s/ Scott R. Matthews  
Scott R. Matthews